

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY RICHARD NELSON,
Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner
of the Social Security Administration,
Defendant.

CASE NO. 12-cv-05540-RJB-JRC

ORDER TO PROVIDE PROOF OF
SERVICE OR TO SHOW CAUSE
WHY THIS MATTER SHOULD
NOT BE DISMISSED

This matter has been referred to the United States Magistrate Judge J. Richard
Creatura pursuant to 28 U.S.C. § 636(b)(1) and Local Magistrate Judge rule MJR 4(a)(4),
and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261, 271-72
(1976).

Because there is no evidence in the record that this case has been served properly,
the Court hereby orders plaintiff to provide proof of service or show cause by January 11,
2013 as to why this matter should not be dismissed for lack of prosecution.

DISCUSSION

Fed. R. Civ. P. 4(m) requires a defendant to be served within 120 days after a complaint is filed. Fed. R. Civ. P. 4(1) requires proof of service to be filed or made to the court¹. At this time, although the complaint in this matter was filed on June 19, 2012 and summonses were issued on June 20, 2012 (*see* ECF Nos. 1, 2) the record does not show that the complaint has been served properly. *See also* Fed. R. Civ. P. 4(l) (proving service).

Fed. R. Civ. P. 4(i) governs service with respect to complaints against the United States and against United States agencies, officers and employees. *See* Fed. R. Civ. P. 4(i); *see also* *Villegas v. Astrue*, 2012 U.S. Dist. LEXIS 55223 at *1-*2 (C.D. Cal. April 18, 2012) (*citing* Fed. R. Civ. P. 41(b)).

Fed. R. Civ. P. 4(m) requires the court to provide notice to plaintiff before the matter may be dismissed for lack of prosecution, and Rule 4(i)(4) requires the court to allow a reasonable time for plaintiff to cure a failure to serve multiple entities, if plaintiff has effected service on either the United States Attorney or the Attorney General of the United States.

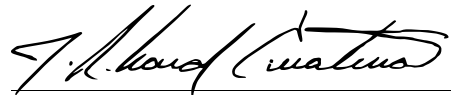
CONCLUSION

Plaintiff is hereby ordered to provide proof of service or show cause why this matter should not be dismissed for lack of prosecution by January 11, 2013. Failure to

¹ This Court's website has instructions regarding ways to accomplish service of Summons and Complaint: <http://www.wawd.uscourts.gov/referencematerials/forms.htm>; <http://www.wawd.uscourts.gov/documents/SpecialCaseNotices/MDL1407/08.pdf>.

1 provide proof of service or show cause likely will result in a Report and
2 Recommendation to dismiss this action. Plaintiff's action subsequently may be dismissed
3 by the Court.

4 Dated this 7th day of December, 2012.

6
7 

8 J. Richard Creatura
9 United States Magistrate Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24